IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

LETTERS PATENT APPEAL NO.44 OF 2005

AGAINST

WRIT PETITION NO.8809 OF 2004

A/W. Civil Application No.2240 OF 2005

Mr Gangadhar Raghavan Pillai, .. Appellant.

Vs

M/s Siemens Limited and Anr. .. Respondents

Mr S.N.Deshpande, for the appellant.

Mr Piyush Shah, for the respondents.

CORAM : V.G.PALSHIKAR & D.B.BHOSALE,JJ.

DATE : 18.10.2005.

PC:

1. Heard the learned counsel for the parties.

2. By this appeal filed under clause 15 of the Letters Patent Act of this Court, an order passed by the learned Single Judge of this Court on 8.12.2004 rejecting writ petition no.8809 of 2004, is challenged.

3. The writ petition was directed against an order passed on 4.8.2004 by the Industrial Court rejecting the complaint filed by the present appellant against the respondent-company, complaining of certain unfair labour

practices allegedly adopted by that company. A perusal of the order passed by the Industrial Court demonstrates that the learned Judge of the Industrial Court has considered all the issues involved and had formulated the point for determination. He had specifically formulated the following point:

> "Whether the complainant proves that the respondent company has engaged into unfair labour practices under items 5,6 & 9 of Schedule IV, by not continuing the complainant in employment and by committing breach of service conditions?"

Then a reasoned order followed thereafter. The learned Judge of the Industrial Court came to the conclusion that the unfair labour practices, as alleged by the complainant-present appellant, are not committed. The finding on the issue is given on appreciation of the evidence by the learned Industrial Court. After giving such finding, in paragraph 13 the learned Industrial Judge has observed that factually the services of the appellant were terminated on 10.5.2000 and, therefore, unless he seeks and gets reinstatement to the job, he again complained of an unfair labour practice because the unfair labour practice committed during the course of the employment. The observations in regard to jurisdiction, therefore, were completely ancillary, and

the learned Industrial Judge gave a finding that the commission regarding unfair labour practices was not proved. This order was challenged before the learned Single Judge of this Court and the learned Judge, on appreciation of the contentions raised, rejected the writ petition. The learned Single Judge has analysed the order passed by the Industrial Court and has observed as under :-

> "The Industrial Court, after hearing the parties on analysis of the materials on record while dismissing the complaint, has held that what has been reiterated in the complaint was that the complainant was engaged at various sites of the respondents after giving artificial breaks in the service."

Then, the learned Single Judge has given a finding that in such circumstances, there is no question of adoption of an unfair labour practice and therefore declined to interfere under Article 227 of the Constitution. That being so, the Letters Patent Appeal, obviously, is not tenable. Even otherwise, we see no fault with the order impugned. The Letters Patent Appeal is, therefore, dismissed.

The civil application, if any, accordingly disposed of.

(D.B.BHOSALE, J.) **(V.G.PALSHIKAR, J.)**